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| 09/520,419      | 03/08/2000  | Julie A. Meek        | 9110-0008           | 1596             |

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 12/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance  
With 37 CFR 1.192(c)**

Application No.

09/520,419

Applicant(s)

MEEK ET AL.

Examiner

Carolyn M Bleck

Art Unit

3626


--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 10 October 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet

  
**JOSEPH THOMAS**  
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**NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR**

**1.192(c)**

Continuation of 8. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).

According to MPEP 1206, an appendix filed in an appeal brief should contain a copy of the claims involved in the appeal. Further, amendments should not be included in the appeal brief. Amendments should be filed as separate papers. In addition, the copy of the claims required in the Appendix by 37 CFR 1.192(c)(9) should be a clean copy and should not include any markings such as brackets or underlining. The copy of the claims should be double spaced and the appendix should start on a new page. According to MPEP 1207, a new amendment must be submitted in a separate paper from the appeal brief.

Appendix A of the Appeal Brief filed 10 October 2003 is titled "Claims Pending Based on Last Entered Amendment." However, Appendix A appears to be a copy of all of the pending claims and not a copy of the claims pending based on the last after final amendment filed 9 September 2003 and entered by the Examiner. Therefore, Appendix A presents an incorrect copy of the pending claims. As such, Appendix A is not in compliance with (37 CFR 1.192(c)(9)), specifically, that an Appendix should include a clean copy of all of the claims involved in the appeal.

Appendix B of the Appeal Brief filed 10 October 2003 contains a marked up copy of the claims on appeal. However, the copy of the claims required in the Appendix by

Art Unit: 3626

37 CFR 1.192(c)(9) should be a clean copy and should not include any markings such as brackets or underlining. In addition, Applicant appears to cancel claims 21 and 23 in the Appeal Brief filed 10 October 2003, however these claims were pending in the previous after final amendment filed 9 September 2003. Therefore, Applicant is required to submit these amendments in a separate paper from the appeal brief.

Continuation of 9. Other:

Status of Amendments

According to page 2 of the Appeal Brief filed 10 October 2003, Applicant states that 9 September 2003 After Final amendment filed by Applicant was not entered by the Examiner. However, it is respectfully submitted that the 9 September 2003 After Final amendment was entered by the Examiner. Therefore, the Examiner notes that as per 9 September 2003 After Final amendment, claims 1-4, 6-10 and 21-23 are pending.

Arguments: II. The addition of claims 21-27 did not add new matter.

Applicant states at page 9 of the Appeal Brief filed 10 October 2003 that claims 21-27 did not add new matter. In response, the Examiner notes that claims 21 and 23-27 are not pending. Therefore, the Examiner respectfully submits that the arguments should be directed to the pending claims (see MPEP 1206).